(16)

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR
(DIVISION BENCH)

CORAM : Hon'ble Shri S.R. Nayak, CJ
Hon'ble Shri Satish K. Agnihotri, J.

Misc. Appeal No. 968 OF 2005

APPELLANTS CLAINANTS

1. Deshram Matwale, S/o Vipatram Matwale, Aged about 44 years
2. Kanti Bai, W/o Deshram Matwale, Aged about 40 years.

Both R/o village Chicha, P.O. Palaud, P.S. Mandirhasaud, Tahsil & District Raipur (C.G.)

Versus

RESPONDENTS NON-APPLICANTS

1. Sanjay Banjare, S/o Sudharam Banjare Village Chicha, P.O. Palaud, P.S. Mandir Hasaud, Tahsil & District Raipur (C.G.) (Owner)
2. The New India Insurance Company Limited Through Divisional Manager, Division Office - Kachahari Chowk, Jail Road, Raipur, Tahsil & District, Raipur (C.G.) (Insurer)

Present:

Mr. S.C. Verma, learned counsel for appellants.

Mr. Shree Kumar Agrawal, Sr. Advocate with Mr. A.K. Gupta, learned counsel for the respondent No. 2/Insurance Company.

ORAL ORDER
(Passed on 15th of December 2005)

The following order of the court was passed by

S.R. Nayak, CJ.

The parents are the claimants and the deceased was their son aged about 19 years, on the date of accident. This appeal is preferred seeking more compensation.

Learned counsel for the appellants would contend that the M.A.C.T. is not justified in taking the income of the deceased at the

notional rate of Rs. 15,000/- per annum, because, he was working as a mason. It was also contended that the M.A.C.T. is not justified in not awarding any compensation towards loss of filial love and loss to estate. We do not find any merit in the first contention. Except the self-serving statement of the claimants that the deceased was a mason, no evidence, either oral or documentary, was adduced before M.A.C.T. It is quite doubtful that the deceased at the young age of 19 years could be a skilled workman undertaking masonry. However, we find force in the other grievance of the appellants that the M.A.C.T. ought to have awarded reasonable compensation towards loss of filial love and loss to estate.

In that view of the matter, we award sum of Rs. 20,000/- towards loss of filial love and another Rs. 20,000/- towards loss to estate. The impugned award shall stand modified accordingly. In all other respects, the impugned award shall stand unaltered. There shall be no order as to costs.

The appeal is allowed to the extent indicated above.

Sd/-
Chief Justice

Sd/-
Satish K. Agnihotri
Judge

Sushm